

# Notice of Allowability

Application No.

09/977,467

Examiner

Than Nguyen

Applicant(s)

BEESTON ET AL.

Art Unit

2187

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/01/03, 5/24/04.
2. ☒ The allowed claim(s) is/are 4-28 and 32-53.
3. ☒ The drawings filed on 10/15/01 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 12/1/04, 5/24/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

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**DETAILED ACTION**

1. This is a response to the amendment and IDS, filed 12/1/03, and IDS, filed 5/24/04.
2. Claims 4-14,18-28,32-53 are pending. Claims 1-3,15-17,29-31 have been canceled.
3. The IDSes, filed 12/1/03 and 5/24/04, have been considered. The faxed in IDS (6/18/04) has also been considered.
4. Applicant has amended independent claims 4,18,32 and added new independent claim 43 to include allowable subject matter stated in the previous office action. Accordingly, these claims and their dependents are allowable for reasons stated in the previous office action.
5. Regarding the double patenting rejection, Applicant has indicated that, upon allowing claims 4-14,18-28,32-53, Applicant will abandon applications 09/968,590 and 09/968,591. Since these claims are now allowed, Applicant should abandon the above applications to avoid double patenting and improper extension of patent terms.

***Examiner's Amendment***

6. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Dale Regelman on 6/18/04. The following amendment corrects the dependency of the claims.

The application has been amended as follows:

**In the Claims:**

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- Claim 10, line 1.      Replace "3" with -4--.
- Claim 21, line 1.      Replace "15" with -18--.
- Claim 24, line 1.      Replace "15" with -18--.

***Allowable Subject Matter***

7.      Claims 4-14,18-28,32-53 are allowed.
8.      Claims 4-14,18-28,32-42 .for reasons indicated in the previous office action.
9.      New claims 43-53 are also allowed for the same reasons as indicated in the previous office action.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Than Nguyen whose telephone number is 703-305-3866. The examiner can normally be reached on 8am-3pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Sparks can be reached on 308-1756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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